

# **RI Department of Environmental Management**

## **ISDS Designer Licensing Review Panel**

**DRAFT Minutes of Open Session of September 17, 2004**

**This meeting of the ISDS Designer Licensing Review Panel was conducted at 235 Promenade Street, in Conference Room 280.**

### **Members of the Panel Present:**

**Scott Moorehead, Chairman**

**David Burnham**

**Jim Tavares**

**Al DiOrio\***

### **Members Absent:**

**Dan Cotta**

### **Others present:**

**Russ Chateauneuf, Chief, DEM Groundwater & Wetlands Protection**

**Brian Moore, DEM ISDS Program**

**Brian Sullivan, DEM ISDS Program**

**Lisa McGreavy, DEM Groundwater and Wetlands Protection**

**\*Members leave prior to meeting adjournment**

**The meeting was called to order at 9:43AM**

## **Minutes of the June 11, 2004 Meeting Open Session:**

**David Burnham made a motion to accept the Draft Minutes of the Open Session portion of the June 11, 2004 meeting with no changes. Scott Moorehead seconded the motion. David Burnham, Scott Moorehead, Jim Tavares, and Al DiOrio voted in favor of the motion. The motion passes.**

## **Information Dissemination Regarding Panel Actions/Recent Changes in the Open Meetings Act:**

**Russ Chateaufneuf raised an issue that was discussed at a previous meeting regarding recent changes in the Open Meetings Act and the need to disseminate information related to the actions of this Panel. The issue relates to cases that settle and would not otherwise be publicized. As an advisory group making recommendations to the Department, this Panel is not required to follow procedures outlined in the Open Meetings Act; however, members have been in consensus that the Panel would follow procedures for posting and documenting minutes. A recent change in the Open Meetings Act which became effective July 17, 2004 requires that all public bodies subject to the Open Meetings Act file all public meeting notices and meeting minutes electronically for posting on the Secretary of State website within 35 days from the date of the meeting. If final minutes**

cannot be approved within this time period, draft minutes would be accepted in the interim.

Scott Moorehead made a motion to recommend that staff electronically file Panel meeting notices and open meeting minutes electronically with the Secretary of State per the Open Meetings Act. Minutes of the closed portion of the meetings would not be filed electronically. In the event that the minutes would not be approved and finalized by the Panel in time to meet the 35-day deadline and a draft version needs to be filed, staff will give the Panel an opportunity to review and provide comments on the draft minutes before they are forwarded to the Secretary of State. Dave Burnham seconded the motion. Scott Moorehead, Dave Burnham, Jim Tavares, and Al DiOrio voted in favor of the motion. The motion passes.

Russ noted that staff will email the draft minutes to the Panel and provide sufficient time for the Panel to review them. The Department plans to eventually post a link to the Secretary of State website from the Department's website and we could locate a link on the ISDS Permitting web page adjacent to an ISDS Designer Review Panel label. (Note: Currently there is no direct reference to the existence of the ISDS Designer Review Panel on the ISDS permitting web page.)

In open call, Scott Moorehead announced that the meeting would proceed in executive session pursuant to R.I.G.L. 42-46-5 (a)4 for discussion of the conduct of specific designers. David Burnham

**seconded the motion. Scott Moorehead, David Burnham, Al DiOrio, and Jim Tavares voted in favor of conducting this business in executive session. The motion passes.**

**The Executive Session was called to order at 9:59AM.**

### **Continuation of Open Session**

**The open meeting was reconvened at 2:11PM.**

**Scott Moorehead made a motion to affirm the votes taken in executive session, which are listed below, and to seal the minutes of the executive session. David Burnham seconded the motion. Scott Moorehead, David Burnham, and Jim Tavares voted in favor of the motion. The motion passes.**

### **Votes approved in Executive Session:**

**Scott Moorehead made a motion to approve the minutes of the Executive Session portion of the June 11, 2004 meeting with the following revisions. David Burnham seconded the motion. Scott Moorehead, David Burnham, Jim Tavares, and Al DiOrio voted in favor of the motion. The motion passes.**

- On Page 1, replace the name “Maretti” with the full and correct spelling “Luigi Marietti”;**
- On Page 1, replace the phrase “...sleeve on the outlet-t.” with “...outlet-t and effluent filter.”;**
- On Page 1, replace the phrase “...the sleeve was not fixed.” with “...the outlet-t and effluent filter was not fixed.”;**
- On Page 4, replace the phrase “...one year to submit a COC.” with “...one year to complete construction.”**

**David Burnham made a motion that the Panel recommends that the Department issue a warning letter to Mr. Todd Chaplin to be included in his file and require Mr. Chaplin to submit a written quality control plan to the Department within thirty days from the date of notification for review and approval by the Department. The quality control plan should address specific actions Chaplin will take to improve the performance of his professional conduct and application submittals including but not limited to providing accurate and sufficient information regarding nearby septic systems, wells, and waterlines, and scheduling inspections with the Department as required. The Department and the Panel will review Chaplin’s performance over the next year and if at any time Mr. Chaplin’s performance has not satisfactorily improved, additional action may be taken including penalty fines, license suspension or revocation. The Panel may also consider performance issues occurring prior to this motion in their recommendation for action to the Department. Scott Moorehead seconded the motion. Dave Burnham, Scott Moorehead, Jim Tavares,**

and Al DiOrio voted in favor. The motion passes. [Dan Cotta was absent from the meeting.]

Scott Moorehead made a motion that the Panel recommends that the Department send a letter to Mr. Glen Skurka to notify him that although the Panel is not recommending official enforcement action against his license at this time, his performance as a licensed designer needs to be improved. The Panel requests that Mr. Skurka submit a written quality control plan to the Department within thirty days from the date of notification outlining the methods that will be undertaken by himself and his office to insure that all future test hole results for any ISDS or suitability application, either witnessed or not witnessed, and all supplemental readings shall be submitted to the Department and be in compliance with the regulations, in addition to the other issues that were raised by the Panel. Jim Tavares seconded the motion. Scott Moorehead, Jim Tavares, and Dave Burnham voted in favor of the motion. The motion passes. [Al DiOrio was absent from this portion of the meeting and Dan Cotta was absent from the meeting.]

David Burnham made a motion to seal the minutes of the Executive Session, adjourn the Executive Session and reconvene the Open Session. Jim Tavares seconded the motion. David Burnham, Jim Tavares, and Scott Moorehead, voted in favor of the motion. The motion passes.

## **Procedures for Filing Licensee Records at DEM**

**Russ Chateaufneuf brought forward an issue that was recently raised in the office for which a recommendation from the Panel is desired. Section 25.05 (f) in the regulations refer to filing procedures involving Panel actions as a result of receiving a written complaint; however clarification is needed regarding filing procedures for licensees who are brought before the Panel due to staff's concerns with performance issues. The regulations state that:**

- 1) Upon receipt of a written complaint regarding a licensed designer or soil evaluator, the Director shall contact the licensee and all relevant parties to the complaint as part of the Director's preliminary review.**
- 2) If as a result of the preliminary review, the Director concludes that the complaint lacks merit or is not within the Department's jurisdiction under the regulations, the Director shall dismiss the complaint and no record of the complaint shall be placed in the licensee's file.**
- 3) If as a result of the preliminary review, the Director concludes that the complaint may have merit, the Director shall forward the complaint and a report of any findings to the Review Panel.**
- 4) The Review Panel shall review the complaint and make recommendations appropriate to its authority to the Director.**

**[Writers note: This specific reference to the regulations was subsequently entered into the record.]**

**The Panel agreed that in addition to the correspondence that comes out of this process as a result of a written complaint, correspondence that is issued when there is a performance issue that staff brings to the Panel will also be placed in the licensee's file. The Department considers this file to be a public record and will contain all appropriate documents related to that person's licensing history including correspondence related to the actions of this Panel. There are some types of correspondence however that should not be included in the licensee's public file. These include correspondence involving pending matters that have not been brought before the Panel such as staff tracking notes. Any exams the licensee has taken should also not be included in the public file due to the issue of the public seeing test questions. The public could receive test scores but not see the actual exam. The exam documents should be kept in a separate file and can only be reviewed by the licensee who took the exam for a period of thirty days after the exam date. The non-public files will be maintained in a locked file cabinet by Brian Sullivan.**

**Next Meeting:**

**Staff reported no new matters on the horizon needing to go before the Panel. The rule says the Panel must meet not less than once every**



**six months. Meetings usually take place on the third Friday of the month a meeting is scheduled.**

**The next meeting will be held on Friday, January 21, 2005 from 9:30 AM to 12:00 PM in Conference Room 280 in the DEM Office of Water Resources.**

**David Burnham made a motion to adjourn. Jim Tavares seconded the motion. David Burnham, Jim Tavares, and Scott Moorehead voted in favor of the motion. The motion passes.**

**The meeting adjourned at 2:11 PM.**